

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 31733 of 2005(C)

AGAINST THE ORDER DATED 28/10/2003 IN EP 629 2003 IN
OS.341/1996 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

A.K.NOOR MUHAMMED, AGED 40,
S/O.CHEEPARA KHADER RAVUTHAR, PATHUKUDIYIL,
CHELAKKARA VILLAGE, TALAPPILLY TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT:

JIMS, S/O.THANIKKAL POULOSE,
RESIDING AT ABHILASH, MANISSERY DESOM,
THRIKKANGODE AMSOM, OTTAPPALAM TALUK.

BY ADV. SRI.ROBSON PAUL
SRI.C.A.CHACKO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX (WPC NO.31733/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF E.P.NO.629/03 IN O.S.NO.341/96 ON THE FILE OF THE SUB COURT, THRISSUR DATED 28.10.03.

EXT.P2: TRUE COPY OF THE OBJECTIONS FILED BY THE PETITIONER TO EXT.P1 DATED 26.5.2004.

EXT.P3: TRUE COPY OF THE PROCEEDINGS OF THE SECOND ADDL. SUB COURT, THRISSUR DATED 12.8.05 IN EXT.P1.

PIUS C. KURIAKOSE,J.

W.P.(C) No. 31733 of 2005

Dated: 30th May, 2007

JUDGMENT

Ext.P3 proceedings of the execution court settling the draft sale proclamation and directing sale of the property fixing the upset price at Rs.1,10,501/- is under challenge in this proceeding under Article 226 initiated by the judgment-debtor, the owner of the property.

2. Mr.G.Sreekumar(Chelur), learned counsel for the petitioner submits that since it is a sale decree which was passed against the petitioner, he is willing to pay the balance decree debt provided reasonable time is given in that regard. I am not persuaded to hold that Ext.P3 warrants correction under Article 227 of the Constitution. However, I feel that the petitioner can be allowed the indulgence of time for liquidating the decree debt so as to salvage the property. Under these circumstances, the Writ Petition will stand disposed of issuing the following directions:

The order of stay presently passed will continue for a period of 8 more months from today provided the petitioner complies with the following conditions:

The petitioner pays every month commencing from 15.6.2007 at the rate of Rs.10,000/- without fail. He will forfeit the instalment

facility granted as above if he defaults remittance of any two instalments. Once it is seen that the petitioner has remitted the balance instalments without fail, the court below will entertain an application submitted by the petitioner for recording full satisfaction. The court below will pass orders after receiving the objections of the respondent and after hearing both sides on that application.

srd

PIUS C.KURIAKOSE, JUDGE